

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PHILLIP L. DICK,

Plaintiff,

v.

RUTH A. DICK, a/k/a RUTH A. CARAVAS,  
a/k/a RUTH A. BROWN,

Defendants.

No. C10-5536 RBL/KLS

**REPORT AND RECOMMENDATION**  
**Noted For: November 12, 2010**

This civil rights action has been referred to the undersigned United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4.

It has been more than sixty days since the court's latest mailings to Plaintiff were returned and the court does not have a current address for the Plaintiff. Therefore, the undersigned recommends that the court dismiss this action as Plaintiff appears to have abandoned his case.

**DISCUSSION**

On August 3, 2010, Plaintiff filed a motion for leave to proceed *in forma pauperis* and a proposed civil rights complaint. ECF No. 1. On August 4, 2010, the Clerk of Court sent a letter to Plaintiff advising him that his application to proceed *in forma pauperis* was deficient. ECF No. 2. The letter was mailed to the Plaintiff at his last known mailing address at the Airway Heights Corrections Center (AHCC). *Id.* The mail was returned as "undeliverable," "Offender not at AHCC." ECF No. 3.

1 Plaintiff has not notified the court of his current address. Local Rule 41(b)(2) states:

2 A party proceeding pro se shall keep the court and opposing parties advised as to  
3 his current address. If mail directed to a pro-se plaintiff by the clerk is returned  
4 by the post office, and if such plaintiff fails to notify the court and opposing  
5 parties within sixty days thereafter of his current address, the court may dismiss  
6 the action without prejudice for failure to prosecute.

7 This action has existed more than sixty days without a current address for the Plaintiff.

8 Dismissal without prejudice for failure to prosecute is appropriate. Accordingly, the undersigned  
9 recommends **DISMISSAL WITHOUT PREJUDICE** for failure to prosecute pursuant to Local  
10 Rule 41(b)(2).

### 11 CONCLUSION

12 The Court should dismiss this action without prejudice as Plaintiff has left no forwarding  
13 address and appears to have abandoned the case.

14 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil  
15 Procedure, the parties shall have fourteen (14) days from service of this Report to file written  
16 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those  
17 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the  
18 time limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on  
19 **November 12, 2010**, as noted in the caption.

20 DATED this 25th day of October, 2010.

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23 Karen L. Strombom  
24 United States Magistrate Judge  
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